

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5821 of 1996

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1 Whether Reporters of Local Papers may be
allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair
copy of the judgment ?

4 Whether this case involves a substantial
question of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**JUNAGADH AMRELI GRAMEEN BANK OFFICER'S ASSOCIATION
& 1 - Petitioner(s)**

Versus

STATE BANK OF SAURASHTRA & 2 - Respondent(s)

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Appearance :

MR PJ KANABAR for Petitioner(s) : 1 - 2.

MR AS VAKIL for Respondent(s) : 1, 3,

SERVED BY RPAD - (N) for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 24/07/2006

ORAL JUDGMENT

1 This petition was notified for final hearing on 21/7/2006. Mr.P.J.Kanabar, learned Advocate appearing on behalf of the petitioner-association prayed for time to obtain instructions and accordingly the matter was adjourned and posted today i.e. 24.07.2006. Today when the matter came up for hearing, the learned Advocate for the petitioner once again requested for time, as he had no instructions, because the office bearers of the petitioner association had undergone change and respondent No.3 - Bank on merger with two other Regional Rural Banks formed one Saurashtra Gramin Bank. The request has been rejected for the reasons which follow hereinafter and the matter has been finally heard.

2 The petitioner is the registered association of employee officers of erstwhile Junagadh – Amreli Grameen Bank and the petition has been preferred through its General Secretary. The reliefs prayed for in the petition read as under :

“13. The petitioners therefore pray to this Honourable Court :-

(A) Your Lordships may be pleased to admit this writ petition;

(B) Your Lordships may be pleased to issue a writ of mandamus or any other appropriate writ, order or

direction to respondents directing them to pay to the petitioners the diem allowance-halting allowance and conveyances allowances on certificate basis with the rates on par with the sponsored bank employees and with a further direction to the respondents to revise them on par with the sponsored bank employees immediately and without any delay.

(C) Pending hearing and final disposal of this petition, Your Lordships may be pleased to direct the respondents to provide diem allowance on revised scale on par with the sponsored bank employees and the conveyance allowance on certificate basis to the petitioner-association members.

(D) Such other and further reliefs as deemed just and proper in the interest of justice may kindly be granted”.

3 It is submitted on behalf of the petitioners that the employees, with special reference to the officers of respondent No.3-Bank are being discriminated against vis-a-vis the employees of sponsor bank viz., respondent No.1. It is urged that the three allowances claimed by the petitioner are not being granted to the members of the petitioner association, and if granted, not at the rates at which the officers of respondent No.1-Bank are being granted.

4 In support of the submission, by way of illustration, the learned Advocate for the petitioner invited attention to circular No.19/1993-94 dated 16.7.1993 (Annexure-D) to submit that the members of petitioner-association were being granted monthly conveyance expenses on self reimbursement basis i.e., certificate basis at a fixed rate, but vide circular No.2/95-96 dated 18.4.1995 the said reimbursement has been discontinued and with effect from 1.4.1995 only actual expenses incurred are being reimbursed. He therefore, urged that, in these circumstances, the members of petitioner-association are being discriminated against and they should be put at par with the employees of respondent No.1-Bank. In support of the submissions reliance has been placed on the Apex Court decision in the case of *South Malbar Gramin Bank Vs. Co-ordination Committee of South Malbar Gramin Bank Employees' Union and South Malbar Gramin Bank Officers' Federation and others (2001) 4 SCC 101* with special reference to the observations made in paragraph Nos. 11 & 12 of the judgment. It was submitted that the Apex Court has directed the Central Government to ensure that employees of all rural banks are put at par with employees of the respective sponsor bank in the matter of wages and all allowances. That paying capacity of the employer for this purpose cannot be considered to be a relevant factor as held by the Apex Court. He therefore urged that, in the circumstances a direction be issued to respondent authorities not only to grant the allowances claimed but grant the same at the rate at which the employees of respondent No.1 sponsor bank are being granted, including restoring modality by which conveyance allowance was being granted to the members of the petitioner-association.

5 The learned Advocate appearing on behalf of respondent Nos. 1 & 3, Mr. Apurva S. Vakil, has submitted that at no stage payment of conveyance allowance was ever discontinued. The only change that has been brought about is the change in the method of the payment. That justification for changing the method has already been indicated in the subsequent circular and elaborately stated in the affidavit-in-reply. He, therefore urged that there was no discrimination which would warrant any relief to the petitioners.

6 In the case of *South Malbar Gramin Bank* (supra) the Apex Court was called upon to decide, in the first instance, whether the award made by the National Industrial Tribunal can be construed to mean that the pay scales and other emoluments of the Regional Rural Bank Employees would stand automatically altered as and when the pay structure of the employees of the Commercial Banks gets revised? The question has been answered thus :

“11. On the contentions raised by the learned counsel for the parties, the first question that arises for consideration is whether the award given by Justice Obul Reddi and accepted by the State Government and given effect to, can be construed to mean that the pay scales and other emoluments of the regional rural bank employees would stand automatically altered, as and when the pay structure of the employees of the commercial banks gets revised, on the basis of the so-called bipartite

settlement between the employer and the employees of those commercial banks. The award nowhere indicated this course of action nor could it have indicated so, in view of the provisions of the Regional Rural Banks Act, conferring specific power on the Central Government to decide the pay structure of the employees of the regional rural banks. The second proviso to Section 17(1) of the Regional Rural Banks Act, 1976 reads thus :

“provided further that the remuneration of officers and other employees appointed by a regional rural bank shall be such as may be determined by the Central Government, and, in determining such remuneration, the Central Government shall have due regard to the salary structure of the employees of the State Government and the local authorities of comparable level and status in the notified area”.

The legislature, therefore, while enacting a law for establishment and incorporation of the regional rural banks, conferred power on the Central Government for determining the remuneration of the officers and employees appointed by the regional rural banks and that power conferred upon the Central Government by the legislature cannot be taken away by an award of a tribunal, constituted by the Central Government for redressing the grievances of the employees, which were pending

before a court of law. Even the prayer in the writ petition that had been filed in the Supreme Court was not for a declaration and mandamus that the employees of the regional rural banks would be entitled to the same scale of pay as and when the pay structure of their counterparts in the nationalised commercial banks gets revised. To construe the award of Justice Obul Reddi in the manner as was contended by the counsel appearing for the employees of the Bank would tantamount to making the second proviso to Section 17(1) of the Act nugatory, redundant and otiose and by no stretch of imagination the duties and powers conferred on the Central Government under the Act could be made nugatory by interpreting an award of a tribunal. The disputes raised before the Court being disputes on several questions of facts, the Court and the Union Government thought it fit to be adjudicated upon by a tribunal and the Tribunal on discussion on materials, gave its award. The relevant findings of the Tribunal, which we have quoted earlier in this judgment, does not in any manner even contemplate that the power and jurisdiction of the Central Government under the second proviso to sub-section (1) of Section 17 would become redundant and the pay structure as decided in 1987, pursuant to the award of the Tribunal in respect of

the employees of the regional rural banks would automatically get revised as and when the pay structure of the employees of the commercial banks gets revised. On the construction of the award of Justice Obul Reddi and the provisions of the second proviso to Section 17(1) of the Act, we have no hesitation to hold that the revision of pay structure of the employees of the regional rural banks could be made, only after the Central Government exercises its power under the provisions of the Act and determines the same. If however, the Central Government fails to discharge its obligation as in the case in hand, which would result in gross disparity between the pay scales of the commercial banks and the regional rural banks, then a mandamus could be issued to the Central Government for performance of its duties and the Central Government would be bound to perform its duties, taking into account all germane factors, including the factor of the subsequent pay revision of the employees of the nationalised commercial banks”.

7 Therefore, the settled legal position is :(a) that by virtue of provisions of Section 17(1), with special reference to the second Proviso thereunder, of the Regional Rural Banks Act, 1976 a power has been conferred on the Central Government for determining the

remuneration of the officers and employees appointed by the Regional Rural Banks;

(b) That the award by the Tribunal in respect of the employees of Regional Rural Banks would not result in automatic revision of the pay structure as and when the pay structure of the employees of the commercial banks gets revised;

(c) That the award by the Tribunal does not take away or in any way reduce the power and jurisdiction of the Central Government under the second Proviso to sub-section(1) of Section 17 of Regional Rural Banks Act;

(d) However, in a case where the Central Government fails to discharge its obligation after taking into account all germane factors mandamus could be issued to the Central Government for performance of its duties.

8 Applying the aforesaid principles to the facts of the case it is apparent that there is no whisper in the petition that the Central Government has failed to discharge its statutory obligations. In fact the Central Government is neither a party nor has any relief been claimed against the Central Government. In these circumstances, once the law is settled, that it is the Central Government which has the powers to decide whether any disparity exists or not, and grant consequential benefits, in case any disparity exists, no mandamus or direction could be issued against the present respondents, who are bound by the decision that the Central Government may take

and the directions it may issue. Therefore, on this limited count the petition must fail.

9 However, it is also necessary to take note of the fact that the petitioner has not been able to show from any cogent evidence on record that the employees of the sponsor bank are being granted any allowance which the members of the petitioner association are not being granted; or that the employees of the sponsor bank are being granted any allowance at a rate which is higher than the rate at which the members of the petitioner association are being granted the same allowance. Therefore, on this count also the petition does not merit acceptance.

10. In relation to the plea that the members of the petitioner association were being granted conveyance allowance on a fixed lump sum basis per month and that the said basis has been changed to “actual expenditure incurred” resulting in discrimination, the same does not merit acceptance, for the simple reason that there is no discrimination shown to exist. Neither can the petitioner association claim a right to be granted allowance on a particular basis only. While granting allowance it is always open to the employer establishment to adopt a basis which in its opinion is demanded by the administrative and commercial exigencies. The Court has no role to play in such a policy decision.

11. Though the learned Advocate for the respondent Nos. 1 and 3 sought to place on record and invite attention to various circulars issued subsequently, the Court has not thought it fit to consider the

same in light of what is stated hereinbefore.

12 In the result, on none of the grounds canvassed the petition deserves to be accepted and is accordingly rejected. Rule discharged. There shall be no order as to costs.

(D.A.MEHTA, J.)

m.m.bhatt